S.B. CIVIL WRIT PETITION NO. 6574/2003

National Industry Vs. Ajmer Vidyut Vitran Nigam Ltd. & Anr.

DATE OF ORDER : 11.05.2006

HON'BLE MR. GOVIND MATHUR, J.

Mr. V.K. Mathur, for the petitioner/s.
Mr. Ravi Bhansali, for the respondents.

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A sum of Rs.39,941.78 was demanded and charged by the respondent–Corporation from the petitioner under an electricity connection memo dated 29.10.2003 for misusing the electricity connection, validity of that is questioned in this petition for writ.

The petitioner–firm, as averred in the writ petition, being in need of 260 HP electricity connection submitted an application in prescribed proforma alongwith all requisites to the competent authority of respondent–Corporation but no action was taken, therefore, in view of Clause 6.6 of the applicable guidelines by treating the sanction deemed to be granted for increasing electricity load the petitioner utilized extended load of the electricity. According to the counsel for the petitioner at the time of utilizing extended load of electricity no demand against the petitioner was due and the respondents unauthorizedly

demanded and charged the fine of Rs. 39,941.78 under the head of misuse.

A reply to the writ petition has been filed on behalf of the respondent–Corporation stating therein that no sanction for extension of electricity load could be deemed to be granted if any amount is due against a consumer towards the Corporation. A demand was outstanding against the petitioner, therefore, the provisions of Clause 6.6 of the guidelines is having no application in present controversy. The petitioner was aware of it but just for illegal use of electricity the load was extended.

While accepting the fact that an amount was due against the petitioner towards the Corporation it is urged by the counsel for the petitioner that the aforesaid due is subject matter of a writ petition pending before this court bearing No. 4974/2002 wherein an interim order is granted in favour of the petitioner restraining the respondents from discontinuing the electricity connection, therefore, the demand made by the respondents could not be treated as a demand outstanding. On basis of it the counsel for the petitioner has reiterated that the demand and charge of Rs. 39,941.78 is illegal and same deserves to be quashed.

Heard counsel for the parties. Clause 6.6 of the applicable guidelines reads as under:

> "**6.6** उपभोक्ता द्वारा लोड़ एक्सटेंशन के लिये प्रार्थना–पत्र देने एवं समस्त औपचारिकता पूर्ण करने के पश्चात यदि विद्युत वितरण निगम लिमिटेड से किसी प्रकार की सूचना प्राप्त नहीं होने पर लघु उद्योग में एक माह पश्चात एवं मध्यम उद्योग में 45 दिवस पश्चात् स्वत: एक्सटेंशन मान लिया जावेगा बशर्ते उपभोक्ता के खाते में कोई राशि बकाया न हो ।"

From reading of the Clause 6.6 it is apparent that a presumption to grant extension of load can be drawn, if no amount is due against consumer towards the Corporation. In the instant matter it is the position admitted that certain amount was due against the petitioner towards the Corporation and the petitioner was aware of it, therefore, Clause 6.6 is having no application in the present controversy. It is true that the amount said to be due is subject matter of writ petition pending before this Court and an interim order is also operating in favour of the petitioner to the effect that the electric connection availed shall not be disconnected but on that count it cannot be accepted that no amount was due against the petitioner. The order passed by this Court is an interlocutory order and it does not wipe out the dues against the petitioner. The effect of the interim order is only

to the extent of not discontinuing the electric connection on basis of that it could not be presumed that no amount was outstanding against the petitioner towards Corporation. The petitioner, therefore, erroneously utilized the extended electricity load, and therefore, was rightly held guilty for misusing the electricity connection. The respondent–Corporation rightly charged the fine for misusing of the electricity connection.

In view of whatever discussed above I do not find any merit in the writ petition. The same therefore is dismissed.

(GOVIND MATHUR),J.

J.goyal